REMARKS

Summary of the Office Action

Claims 1-4, 5-12 and 15-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated

by Kuroda (U.S. Patent No. 6,724,704) (hereinafter "Kuroda").

Summary of the Response to the Office Action

Applicant has amended claim 9 to differently describe embodiments of the disclosure of

the instant application's specification. Applicant has also canceled claims 1-4, 8, 11-12, 17 and

18 without prejudice or disclaimer. The dependencies of claims 15 and 16 have been amended

in light of these amendments. Accordingly, claims 9, 10, 15 and 16 remain currently pending for

consideration.

Rejection under 35 U.S.C. § 102(b)

Claims 1-4, 5-12 and 15-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated

by Kuroda. Applicant has canceled claims 1-4, 8, 11-12, 17 and 18 without prejudice or

disclaimer, rendering the rejections of these claims moot. In addition, while claims 5-7 stand

rejected, these claims were canceled in the previous response filed on August 12, 2005 in this

application. Applicant has amended claim 9 to differently describe embodiments of the

disclosure of the instant application's specification. Claims 15 and 16 have been amended to

depend from claim 9. To the extent that these rejections might be deemed to apply to the claims

as newly-amended, they are respectfully traversed for at least the following reasons.

Claim 9 is amended to more specifically describe an important feature of embodiments of the instant application in that "the controller <u>performs positional deviation correction</u> of recording data by <u>rewriting</u> the data (emphasis added)." Additionally, claim 9 is further amended in a similar manner to the amendments to currently-canceled claim 1, as implemented in the response previously-filed in this application on August 12, 2005. Applicant respectfully submits that the amendments to claim 9 are supported by the description, for example, at page 22, line 24 - page 23, line 18 of the instant application's specification.

With regard to amended independent claim 9, features of recording apparatus combination described in that claim are particularly distinguished from the applied art of record in that it describes "an irregular-area detector for detecting an irregular recording area which has the deviation" and "the controller performs positional deviation correction of recording data by rewriting the data which has already recorded on the irregular recording area."

More specifically, Applicant respectfully submits that with reference to the description at page 22, line 21- page 23, line 18 and Fig. 8 of the instant application, the detector (CPU 27) detects a deviation Δ (for example, a difference between an end position address of recorded data on said optical recording medium and a frame address next to the end position address). If the controller (CPU 27) determines that there is the deviation Δ, for example, an irregular recording area (or, "correction area", see, for example, page 23, line 6 of the instant application's specification), the controller (CPU 27) rewrites the data on the irregular recording area so as to perform positional deviation correction of recording data. See, for example, page 23, lines 5-16 of the instant application's specification.

Applicant respectfully submits that the cited reference to <u>Kuroda</u>, on the contrary, merely discloses additional recording that is subsequent to previously recorded data, discussed therein as "old data." See col. 10, lines 39-43 of <u>Kuroda</u>. More specifically, <u>Kuroda</u> discloses that dummy data 44 is recorded in the 1st sync frame 42F and 86-bytes portion of 2nd sync frame 42S subsequent to the old data. The old dummy data, the SY and ID 21 are recorded as a finalizing processing. See the discussion of "processing required at the end of the recording" at col. 13, lines 22-25 of <u>Kuroda</u>.

Applicant respectfully submits that in the "additional recording" of <u>Kuroda</u>, the CPU 9 detects (N+1) address (more particularly, the start of the next ECC block 30T) and searches for the ID 21 of the 2nd sync frame 42S. The CPU 9 initiates phase-lock operation. See col. 12, lines 46-51 and Fig. 7E – 7G of <u>Kuroda</u>. The CPU 9 of <u>Kuroda</u> counts the clock (Fig. 7D) until the count value reaches N2 (col. 12, lines 52-56 of <u>Kuroda</u>) when the additional recording is started at time T4 (Fig. 7J). Applicant respectfully submits that <u>Kuroda</u> merely discloses that "new data" is recorded subsequent to the old (dummy) data.

Therefore, Applicant respectfully submits that the feature of the embodiments of the disclosure of the instant application, as described in newly-amended independent claim 9, of rewriting the data so as to perform positional deviation correction of recording data is neither disclosed, nor even suggested in the cited reference.

Accordingly, Applicant respectfully asserts that the rejection under 35 U.S.C. § 102(b) should be withdrawn because <u>Kuroda</u> does not teach or suggest each feature of independent claim 9, as amended. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every

element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Furthermore, Applicant respectfully asserts that dependent claims 10, 15 and 16 are allowable at least because of their dependence from independent claim 9, as amended, and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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